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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,466	06/26/2003	Sumedh N. Barde	MS1-1543US	3501
22801	7590	03/15/2007		
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER FRINK, JOHN MOORE	
			ART UNIT	PAPER NUMBER
			2142	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/15/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/15/2007.

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lhptoms@leehayes.com

<b>Office Action Summary</b>	Application No. 10/606,466	Applicant(s) BARDE ET AL.	
	Examiner John M. Frink	Art Unit 2109	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 13-26 and 34-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 27-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____  |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date : Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :2003-06-26,2004-05-18, 2004-07-21, 2004-12-06, 2004-04-13, 2005-12-30, 2006-04-14, 2006-07-14, 2006-08-04. .

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of claims 1 – 12 and 27 - 33 in the reply filed on 12/26/2006 is acknowledged.
2. Claims 13 – 26 and 34 – 43 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/26/2006.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

1. Claims 1, 2, 6, 12, 27, 28 and 32 are rejected under 35 U.S.C. 102(a) as being anticipated by Armstrong et al. (US 2005/0256941 A1).
2. Regarding claim 1, Armstrong et al. show receiving a static image from a content provider; displaying the static image; and buffering video content from the content provider during the displaying ([0020, 0024]).
3. Regarding claim 27, Armstrong et al. shows receiving a static image from a content provider, buffering video content from the content provider, and displaying the static image until the video content is fully buffered ([0020, 0024]).

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4. Regarding claims 2 and 28, Armstrong et al. show when the buffering of the video content is complete, ceasing the displaying of the static image; and playing the video content ([0020, 0024, 0041, 0042], Fig. 2A – 2C, Fig. 3).
5. Regarding claims 6 and 32, Armstrong et al. show where the static image is a plurality of static images comprising an animated image and the displaying comprises displaying the animated image ([0020, 0032]).
6. Regarding claim 12, Armstrong et al. show a media playing device comprising the processor-readable medium as recited in claim 1 (Fig. 4, [0025, 0044-0046]).
7. Claims 1 – 5 and 27 – 31 are rejected under 35 U.S.C. 102(a) as being anticipated by Chon (PTO 07-2390).
8. Regarding claims 1 and 27, Chon shows receiving a static image from a content provider; displaying the static image; and buffering video content from the content provider during the displaying (pg. 5 lines 10 - 21).
9. Regarding claim 2 and 28, Chon shows when the buffering of the video content is complete, ceasing the displaying of the static image; and playing the video content ().
10. Regarding claim 3 and 29, Chon shows the displaying comprises displaying the static image for a fixed duration, where said fixed duration comprises what Chon refers to as displaying the image 'for an initial buffering time,' meaning displaying the image for a fixed amount of time and that buffering is occurring during that time (pg. 7 lines 16 - 20).

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11. Regarding claim 4 and 30, Chon shows displaying the static image beyond the fixed duration if the buffering is not complete when the fixed duration expires (pg. 5 lines 17 - 20).

12. Regarding claim 5 and 31, Chon shows if the buffering is complete when the fixed duration expires, ceasing the displaying of the static image; and playing the video content (pg. 5 lines 19 – 23, pg. 6 lines 22 - 25).

### **Claim Rejections - 35 USC § 103**

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 3, 4, 5, 8, 9, 10, 29, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong et al. in view of Nakayama et al. (US 6,493,748 B1).

15. Regarding claims 3 and 29, Armstrong et al. show displaying a static image while buffering video ([0020, 0024]).

Armstrong et al. do not show where the static image is displayed for a fixed duration.

Nakayama et al. show where the static image is displayed for a fixed duration (Fig. 11, Fig. 12, col. 11 lines 55 - 65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Armstrong et al. with that of Nakayama et al. in order to ensure the viewer started to watch the video after a specified period of time so in order to better hold the viewer's interest.

16. Regarding claims 4 and 30, Armstrong et al. show displaying a static image while buffering video ([0020, 0024]).

Armstrong et al. do not show displaying the static images beyond the fixed duration if the buffering is not complete when the fixed duration expires.

Nakayama et al. show displaying the static images beyond the fixed duration if the buffering is not complete when the fixed duration expires (col. 11 line 55 – col. 13 line 57) as it is inherent in Nakayama's disclosure that a static image is displayed beyond the original specified time if buffering is not yet finished.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Armstrong et al. with that of Nakayama et al. in order to ensure that static image files can be synchronized with video files and so that video can be guaranteed to be played back fully once initial playback has begun.

17. Regarding claims 5 and 31, Armstrong et al. shows displaying a static image while buffering video, and when the buffering is complete, ceasing the display of said static image ([0020, 0024, 0041-0042]).

Armstrong et al. do not show a displaying said static image for a fixed duration.

Nakayama et al. show displaying a static image for a fixed duration (Fig. 11, Fig. 12).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Armstrong et al. with that of Nakayama et al. in order to play the video as soon as buffering is complete in order to minimize viewer waiting time.

18. Regarding claim 8, Armstrong et al. show the processor-readable medium as recited in claim 1, along with requesting static images from a content provider ([0020, 0024]).

Armstrong et al. do not show implementing a play-list that includes a reference to a static image stored on the content provider and requesting the static images based on the reference.

Nakayama et al. show implementing a play-list that includes a reference to a static image stored on the content provider and requesting the static images based on the reference (Figs. 7, 11, 12,13, col. 6 line 53 – col. 7 line 13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Armstrong et al. with that of Nakayama et al. in order to facilitate showing the multiple static images referenced in the play list instead of just one static image, enabling displaying more information to the viewer.

19. Regarding claim 9, Armstrong et al. show the processor-readable medium as recited in claim 1, along with displaying a static image while a video buffers ([0020, 0024, 0041-0042]).



Armstrong et al. do not show implementing a play-list that includes a duration command and displaying the static image for a specified duration defined by the duration command.

Nakayama et al. show implementing a play-list that includes a duration command and displaying the static image for a specified duration defined by the duration command (Figs. 7, 11, 12 and 13, col. 11 line 55 – col. 12 line 18).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Armstrong et al. with that of Nakayama et al. in order to facilitate showing the multiple static images referenced in the play list instead of just one static image, enabling displaying more information to the viewer and enabling specifying exactly how long each image is displayed and thus emphasized.

20. Regarding claim 10, Armstrong et al. in view of Nakayama et al. further show the medium as recited in claim 9, including utilizing a play-list and a duration command.

Additionally, Armstrong et al. in view of Nakayama et al. show utilizing a show-while-buffering parameter and where the displaying further comprises displaying the static image beyond the specified duration until such time as the buffering is complete (Nakayama, col. 11 line 55 – col. 13 line 57) as it is inherent in Nakayama's disclosure that a static image is displayed beyond the original specified time if buffering is not yet finished in order to keep the static images and video disclosed by Nakayama synchronized.

21. Claims 7 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong et al. in view of Dunlap et al. (US 6,760,749 B1).

Armstrong et al. show the method of claim 1 ([0020, 0024]).

Armstrong et al. do not show where the static image is one of either a JPEG, GIF or PNG.

Dunlap et al. show where the static image is one of either a JPEG, GIF or PNG (col. 7 lines 1 - 35).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Armstrong et al. with that of Dunlap et al. in order to enable utilizing common industry standard graphic file formats.

22. Claims 8 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong et al. in view of Katseff et al. (5,822,537).

Armstrong et al. show the processor-readable medium as recited in claim 1, along with requesting static images from a content provider ([0020, 0024]).

Armstrong et al. do not show implementing a play-list that includes a reference to a static image stored on the content provider and requesting the static images based on the reference.

Katseff et al. show implementing a play-list that includes a reference to a static image stored on the content provider and requesting the static images based on the reference (Figs. 6, 7, 8 and 9, col. 10 line 27 – col. 11 line 44).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Armstrong et al. with that of Katseff et al. in order to facilitate showing the multiple static images referenced in the play list instead of just one static image, enabling displaying more information to the viewer.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Frink whose telephone number is (571)272-9686. The examiner can normally be reached on M-F 7:30AM - 5:00PM EST; off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven McAllister can be reached on (571)272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John Frink



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